

addition to, or in place of, the sanctions that CMS may impose under paragraph (c) of this section.

**§ 423.758 Maximum amount of civil money penalties imposed by CMS.**

If CMS makes a determination under § 423.509(a), as described in § 423.752(b), excepting those determinations under § 423.509(a)(4), CMS may impose civil money penalties, in addition to, or in place of, the sanctions that CMS may impose under § 423.756(c), in the following amounts:

(a) If the deficiency on which the determination is based has directly adversely affected (or has the substantial likelihood of adversely affecting) one or more Part D plan enrollees—up to \$25,000 for each determination.

(b) For each week that a deficiency remains uncorrected after the week in which the Part D sponsor receives CMS' notice of the determination—up to \$10,000 per week.

(c) If CMS makes a determination that a Part D sponsor has terminated its contract with CMS other than in a manner described in § 423.510 and that the sponsor has therefore failed to substantially carry of the terms of the contract, \$250 per Medicare enrollee from the terminated Part D plan or plans at the time the Part D sponsor terminated its contract, or \$100,000, whichever is greater.

**§ 423.760 Other applicable provisions.**

The provisions of section 1128A of the Act (except paragraphs (a) and (b)) apply to civil money penalties under this subpart to the same extent that they apply to a civil money penalty or procedure under section 1128A of the Act.

**Subpart P—Premiums and Cost-Sharing Subsidies for Low-Income Individuals**

**§ 423.771 Basis and scope.**

(a) *Basis.* This subpart is based on section 1860D-14 of the Act.

(b) *Scope.* This subpart sets forth the requirements and limitations for payments by and on behalf of low-income Medicare beneficiaries who enroll in a Part D plan.

**§ 423.772 Definitions.**

For purposes of this subpart, the following definitions apply:

*Applicant* means the Part D eligible individual applying for the subsidies available to subsidy eligible individuals under this subpart.

*Family size* means the applicant, the spouse who is living in the same household, if any and the number of individuals who are related to the applicant or applicants, who are living in the same household and who are dependent on the applicant or the applicant's spouse for at least one-half of their financial support.

*Federal poverty line (FPL)* has the meaning given that term in section 673(2) of the Community Services Block Grant Act (42 USC 9902(2)), including any revision required by that section.

*Full-benefit dual eligible individual* means an individual who, for any month—

(1) Has coverage for the month under a prescription drug plan under Part D of title XVIII, or under an MA-PD plan under Part C of title XVIII; and

(2) Is determined eligible by the State for medical assistance for full benefits under title XIX for the month under any eligibility category covered under the State plan or comprehensive benefits under a demonstration under section 1115 of the Act. (This does not include individuals under Pharmacy Plus program demonstrations or under a section 1115 demonstration that provides pharmacy-only benefits to these individuals.). It also includes any individual who is determined by the State to be eligible for medical assistance under section 1902(a)(10)(C) of the Act (medically needy) or section 1902(f) of the Act (States that use more restrictive eligibility criteria than are used by the SSI program) of the Act for any month if the individual was eligible for medical assistance in any part of the month.

*Full subsidy* means the subsidies available to full subsidy eligible individuals under § 423.780(a) and § 423.782(a).

*Full subsidy eligible individuals* means individuals meeting the eligibility requirements under § 423.773(b).